

## SUBCHAPTER B—ACQUISITION PLANNING

### PART 705—PUBLICIZING CONTRACT ACTIONS

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AUTHORITY: Sec. 621, Pub. L. 87–195, 75 Stat. 445 (22 U.S.C. 2381), as amended; E.O. 12163, Sept. 29, 1979, 44 FR 56673, 3 CFR, 1979 Comp., p. 435; 40 U.S.C. 474.

#### 705.002 Policy.

(a) USAID's Office of Small and Disadvantaged Business Utilization maintains an USAID Consultant Registry Information System (ACRIS), which serves as a reference source and an indication of a prospective contractor's interest in performing USAID contracts. Prospective contractors are invited to file the appropriate form (Standard Forms 254/255, Architect-Engineer and Related Services Questionnaire; or USAID Form 1420–50, USAID Consultant Registry Information System (ACRIS) Organization and Individual Profile) with USAID's Office of Small and Disadvantaged Business Utilization (Department of State, U.S. Agency for International Development, Washington, DC 20523–1414—Attention: Office of Small and Disadvantaged Business Utilization). These forms should be updated annually.

(b) USAID policy is to include all Commerce Business Daily Notices and solicitations on the Internet.

[50 FR 40976, Oct. 8, 1985, and 50 FR 51396, Dec. 17, 1985, as amended at 52 FR 21058, June 4, 1987; 56 FR 2699, Jan. 24, 1991; 62 FR 40467, July 29, 1997]

#### Subpart 705.2—Synopsis of Proposed Contract Actions

##### 705.202 Exceptions.

- (a) [Reserved]  
(b) The head of the U.S. Agency for International Development has deter-

mined after consultation with the Administrator for Federal Procurement Policy and the Administrator of the Small Business Administration, that advance notice is not appropriate or reasonable for contract actions described in 706.302–70(b)(1) through (b)(3).

(c) Advance notice is not required for contract actions undertaken in accordance with 706.302–71.

[51 FR 42845, Nov. 26, 1986, as amended at 54 FR 28069, July 5, 1989; 55 FR 8469, Mar. 8, 1990; 55 FR 39154, Sept. 25, 1990; 56 FR 27208, June 13, 1991; 57 FR 5235, Feb. 13, 1992]

##### 705.207 Preparation and transmittal of certain synopses.

The responsible contracting officer shall notify USAID's Office of Small and Disadvantaged Business Utilization (OSDBU) at least seven business days before publicizing a solicitation in the Commerce Business Daily for an acquisition:

(a) Which is to be funded from amounts referred to in section 706.302–71(a); and

(b) Which is expected to exceed \$100,000.

For exceptions, see 726.7005.

[56 FR 27208, June 13, 1991, as amended at 62 FR 40467, July 29, 1997]

##### 705.502 Authority.

(a) The M/OP Director, acting as head of the Agency under the authority of 701.601(a)(1), hereby authorizes USAID contracting officers to place paid advertisements and notices in newspapers and periodicals. Contracting officers shall document the contract file to reflect consideration of the requirements of (48 CFR) FAR 5.101(b)(4).

[64 FR 5006, Feb. 2, 1999, as amended at 64 FR 42042, Aug. 3, 1999]

### PART 706—COMPETITION REQUIREMENTS

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706.003 Definitions.

#### Subparts 706.1–706.2 [Reserved]

## 706.003

## 48 CFR Ch. 7 (10-1-05 Edition)

### Subpart 706.3—Other Than Full and Open Competition

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706.302-70 Impairment of foreign aid programs.

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### Subpart 706.5—Competition Advocates

706.501 Requirement.

AUTHORITY: Sec. 621, Pub. L. 87-195, 75 Stat. 445 (22 U.S.C. 2381), as amended; E.O. 12163, Sept. 29, 1979, 44 FR 56673, 3 CFR, 1979 Comp., p. 435; 40 U.S.C. 474.

### 706.003 Definitions.

*Procuring activity* means “contracting activity”, as defined in 702.170-3.

[50 FR 40528, Oct. 4, 1985]

### Subparts 706.1-706.2 [Reserved]

### Subpart 706.3—Other Than Full and Open Competition

#### 706.302-5 Authorized or required by statute.

Certain annual appropriations acts authorize USAID to contract with certain disadvantaged enterprises using other than full and open competition. The provisions implementing this authority are set forth in 706.302-71 and part 726.

[58 FR 8702, Feb. 17, 1993, as amended at 62 FR 40467, July 29, 1997]

#### 706.302-70 Impairment of foreign aid programs.

(a) *Authority.* (1) Citation: 40 U.S.C. 474.

(2) Full and open competition need not be obtained when it would impair or otherwise have an adverse effect on programs conducted for the purposes of foreign aid, relief, and rehabilitation.

(b) *Application.* This authority may be used for:

(1) An award under section 636(a)(3) of the Foreign Assistance Act of 1961, as amended, involving a personal services contractor serving abroad;

(2) An award of \$250,000 or less by an overseas contracting activity;

(3)(i) An award for which the Assistant Administrator responsible for the project or program makes a formal

written determination, with supporting findings, that compliance with full and open competition procedures would impair foreign assistance objectives, and would be inconsistent with the fulfillment of the foreign assistance program; or

(ii) Awards for countries, regions, projects, or programs for which the Administrator of USAID makes a formal written determination, with supporting findings, that compliance with full and open competition procedures would impair foreign assistance objectives, and would be inconsistent with the fulfillment of the foreign assistance program.

(4) Awards under AIDAR 715.370-1 (Title XII selection procedure—general) or 715.370-2 (Title XII selection procedure—collaborative assistance).

(5) An award for the continued provision of highly specialized services when award to another resource would result in substantial additional costs to the government or would result in unacceptable delays.

(c) *Limitations.* (1) Offers shall be requested from as many potential offerors as is practicable under the circumstances. While the authority at 706.302-70(b)(5) is for use when the contracting officer determines that the incumbent contractor is the only practicable, potential offeror, the requirement to publicize the intended award, as required in FAR 5.201, still applies.

(2) The contract file must include appropriate explanation and support justifying the award without full and open competition, as provided in FAR 6.303, except that determinations made under 706.302-70(b)(3) will not be subject to the requirement for contracting officer certification or to approvals in accord with FAR 6.304.

(3) The authority in 706.302-70(b)(3)(i) shall be used only when no other authority provided in FAR 6.302 or AIDAR 706.302 is suitable. The specific foreign assistance objective which would be impaired must be identified and explained in the written determination and finding. Prior consultation with the Agency Competition Advocate (see 706.501) is required before executing the written determination and finding, and this consultation must